IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.877 (MS) OF 2006

Mahendra Singh Meir,
S/o late Sri Moti Singh Meir,
R/o Sis Mahal Kathgodam,
P.S. Kathgodam, District- Nainital. .....Petitioner.

Versus

1. State of Uttaranchal.
2. Conservator of Forest, south Kumaon Circle, Uttaranchal, Nainital.
3. Authorized Authority/Divisional Forest Officer, Nainital Van Prabhag, Champawat. .....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Kailash Joshi & Vinod Tiwari, Advocate for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order of confiscation dated 31.12.2005 (Annexure No.2 to the writ petition) passed by the Prescribed Authority/Divisional Forest Officer, Nainital Van Prabhag, Nainital as well as the order dated 03.04.2006 passed by the Conservator, South Kumaon Circle, Uttaranchal, Nainital (Annexure No.4 to the writ petition).

Briefly stated, the petitioner is a registered owner of Vehicle No. UP 01 3247. The vehicle in question was seized by the Haldwani Police on 11th August, 2002 on the ground that the same was involved in the illegal transportation of resin.

Petitioner has moved an application before the prescribed Authority for releasing his vehicle No. UP 01 3247 in Case Crime No. 2393 of 2002 under Section 379, 411 of I.P.C. and 26 Forest Act P.S. Haldwani, in which an order was passed confiscating entire goods on 30th December, 2005.

The said order of confiscation was challenged before the appellate Court and the same also confirmed.

Counsel for the petitioner also prays for the release of the truck in question.

In Suresh Chandra Gupta Vs. State of Uttar Pradesh, High Court of Allahabad has held as under:-

"फिर भी मैं यह समझता हूँ कि किसी ट्रक को एक स्थान खड़ा करने पर उसके इन्जन और पाट्र्स आदि जाम हो जावेंगे जिससे किसी प्रकार को प्रायोजन हासिल नही होगा और इस प्रकार ट्रक खड़ी रहने से और उसके इस्तेमाल न होने से ट्रक खड़ी रहने और उसके इस्तेमाल न होने से ट्रक के मालिक को बहुत क्षति होगी। इसका दूसरा पहलू यह भी है कि यदि ट्रक के खड़ी रहने से और उसका इस्तेमाल नही किये जाने पर जब अन्त में उस ट्रक को जब्त करने पर उसे बेचने पर शासन को उसकी उचित धनराशि भी नहीं मिल पावेगी।

7— इन परिस्थितियों में यह उपयुक्त होगा कि कतिपय उचित शर्तों के आधार पर ट्रक को पुनः चालू रखने की अनुमति दे दी जाय, और ट्रक को उसके मालिक के पक्ष में मुक्त करना उचित होगा।"

In ***Sunder Bhai Ambalal Desai Vs. State of Gujarat (2002) 10 SCC 283***, it has been observed as under:-

"17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if

required at any point of time. This can be done pending of applications for return of such vehicles."

However, in view of the judgment passed by the Apex Court as well as Allahabad High Court, the respondent no.2 is directed to consider for release of the truck after taking sufficient ground to his satisfaction.

So far as the confiscation is concerned, no interference is required and it will be open for the authorities to pass appropriate orders.

Subject to the aforesaid observation, writ petition is disposed of.

(Rajesh Tandon, J.)

15.07.2006
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